

Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 31 1992

Federal Communications Commission
Office of the Secretary

In re Applications of)	MM Docket No. 92-33
)	
CENTRAL FLORIDA EDUCATIONAL	)	File No. BPED-881207MA
FOUNDATION, INC.)	
Channel 202C3)	
Union Park, Florida)	
)	
BIBLE BROADCASTING NETWORK, INC.	)	File No. BPED-890412MJ
Channel 202C2)	
Conway, Florida)	
)	
PALM BAY PUBLIC RADIO, INC.	)	File No. BPED-891127MB
Channel 203A)	
Mims, Florida)	
)	
SOUTHWEST FLORIDA COMMUNITY	)	File No. BPED-891127MC
RADIO, INC.)	
Channel 202C2)	
Conway, Florida)	
)	
MIMS COMMUNITY RADIO, INC.	)	File No. BPED-891127MD
Channel 202C1)	
Oak Hill, Florida)	
)	
HISPANIC BROADCAST SYSTEM, INC.	)	File No. BPED-891128ME
Channel 202C3)	
Lake Mary Florida)	
)	
For Construction Permit for a New)	
Noncommercial Educational)	
FM Station)	

TO: The Honorable Edward J. Kuhlmann
Administrative Law Judge

JOINT REQUEST FOR POSTPONEMENT OF
CERTAIN PROCEDURAL DATES

Central Florida Educational Foundation, Inc., Bible
Broadcasting Network, Inc., Southwest Florida Community
Radio, Inc., Mims Community Radio, Inc., and Hispanic
Broadcast System, Inc. ("Movants") by their attorneys,
hereby respectfully request the Presiding Judge to issue an
order declaring that the Movants (and all other parties

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participating in this proceeding) need not comply with Section 1.325(c) of the Commission's Rules. In support whereof, the following is shown.

Movants are applicants for a construction permit for a new non-commercial educational FM station at Union Park, Conway, Mims, or Lake Mary, Florida.¹ Section 1.325(c) of the Commission's Rules requires the parties to participate in automatic discovery, by serving upon each other the materials listed in the Standard Document Production Order and the Standardized Integration Statement, within 5 days of the date of the filing of notices of appearances. Thus, under the rules, Movants would be required to exchange documents and schedule depositions (if any) by April 6, 1992. Because Section 1.325(c) of the Rules was written with commercial FM proceedings in mind, and the issues designated in this proceeding involve applications for non-commercial educational authorizations, Movants suggest that any discovery should not commence until after the prehearing conference which is scheduled for May 11, 1992. At that conference, the parties and the presiding judge can confer on what kinds of discovery will best assist the Court in developing a useable record, in light of the special issues to be tried. Although Movants recognize that the Presiding Officer is in no way bound by the rulings of other ALJ's, to

¹ One other applicant, Oak Hill, Florida, was designated for hearing, but Movants have not received its Notice of Appearance. So far as is known, it is not represented by counsel.

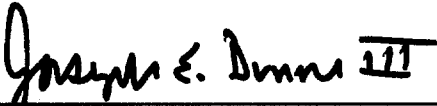
assist the Court, Movants respectfully refer the Presiding Officer to two recent interlocutory rulings by Judge Steinberg which are consistent with Movants' request: Order Prior to Prehearing Conference, FCC 91M-3257, released November 12, 1991, and Order, FCC 92M-123, released January 29, 1992.²

WHEREFORE, in light of the foregoing, Movants respectfully request the Presiding Officer to declare that they need not comply with the provisions of 1.325(c) of the Rules, and that all discovery in this case will be deferred until dates to be set at the Prehearing Conference.

Respectfully submitted,

CENTRAL FLORIDA EDUCATIONAL
FOUNDATION, INC.

By:



Joseph E. Dunne III *per GS*
Its Attorney

Dated: 3-31-92

May & Dunne, Chartered
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Washington, DC 20007

² Copies of the orders are attached for the reader's convenience.

BIBLE BROADCASTING NETWORK, INC.

By: 
Gary S. Smithwick
Its Attorney

Dated: 3-31-92

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**SOUTHWEST FLORIDA COMMUNITY
RADIO, INC.**

By: 
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Its Attorney *per 6-2*

Dated: 3-31-92

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By: Stephen C. Simpson
Stephen C. Simpson
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Dated: 3-31-92

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HISPANIC BROADCAST SYSTEM, INC.

By: James L. Oyster
James L. Oyster
Its Attorney *per 63*

Dated: 3-31-92

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CERTIFICATE OF SERVICE

I, Michelle M. Lamarre, a legal assistant in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 31st day of March 1992, copies of the foregoing were mailed, first class, postage paid to the following:

Honorable Edward J. Kuhlmann*
FCC, Administrative Law Judge
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Michelle M. Lamarre

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 92M-123
01578

In re Applications of	)	MM DOCKET NO. 91-354
)	
FAITH BIBLE COLLEGE	)	File No. BPED-910402MC
)	
for Construction Permit for a New,)	
Noncommercial, Educational FM Station)	
on Channel 213A in Milton, Florida)	
)	
and)	
)	
OKALOOSA PUBLIC RADIO, INC.	)	File No. BPED-901016MK
)	
For Modification of Facilities for)	
Station WTJT-FM, Baker, Florida)	

O R D E R

Issued: January 27, 1992 ; Released: January 29, 1992

This will confirm a telephone ruling made on January 9, 1992. Therein, the Presiding Judge ruled that the applicants need not comply with Sections 1.325(c)(1) and (2) of the Commission's Rules relating to the Standard Document Production Order and the Standardized Integration Statement.

This case involves competing applications for noncommercial educational facilities. The issues specified in this case differ considerably from those designated in cases involving applications for commercial facilities. Consequently, the materials listed in the Standard Document Production Order and the Standardized Integration Statement have no applicability to this proceeding and need not be exchanged.

Accordingly, IT IS ORDERED, nunc pro tunc, that the Joint Emergency Request for Prehearing Conference and/or for Clarification and for Postponement or Suspension of Certain Procedural Dates, jointly filed by the applicants on January 9, 1992, IS GRANTED to the extent reflected above.

FEDERAL COMMUNICATIONS COMMISSION

Arthur I. Steinberg

Arthur I. Steinberg
Administrative Law Judge

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 91M-3257
0568

In re Applications of	)	MM DOCKET NO. 91-291
)	
NORTH CAROLINA CENTRAL UNIVERSITY	)	File No. BPED-890313MY
)	
CENTRAL FLORIDA EDUCATIONAL)	
FOUNDATION, INC.	)	File No. BPED-900717MC
)	
For Construction Permit for a New)	
Noncommercial FM Station on)	
Channel 214C2 in Durham, North Carolina)	

ORDER PRIOR TO PREHEARING CONFERENCE

Issued: November 7, 1991 ; Released: November 12, 1991

1. Under consideration are the Hearing Designation Order in this proceeding, DA 91-1232, released October 29, 1991 ("HDO"), and the Order, FCC 91M-3185, released November 1, 1991, designating the undersigned as the Presiding Judge, setting March 24, 1992, as the hearing date and December 19, 1991, as the date for the prehearing conference.

2. Paragraph 11 of the HDO requires the applicants, pursuant to Section 1.325(c) of the Commission's Rules, to serve upon each other the materials listed in the Standard Document Production Order and the Standardized Integration Statement. On the Presiding Judge's own motion, the applicants are relieved of these requirements. This case involves competing applications for a construction permit for a new noncommercial FM station. The nature of the issues specified in the HDO differ considerably from those designated in cases involving applications for commercial facilities. Consequently, the materials listed in the Standard Document Production Order and the Standardized Integration Statement have no applicability to this proceeding and need not be exchanged.

3. In addition, the Presiding Judge deems it desirable to establish the following procedures:

(a) By November 29, 1991, counsel are directed to confer for the purpose of exploring settlement and possible agreement on share-time arrangements, the scope of the issues to be tried in this case, and discovery. With respect to discovery, if depositions are to be taken the applicants shall agree on a mutually convenient schedule for the taking of depositions. Interrogatories shall not be used and will not be entertained. Moreover, the applicants shall agree on a Joint Document Production Request under the comparative issue which would be applicable to all applicants. This will ensure a uniform and reciprocal disclosure of documents. In the event one of the applicants has a specific document request relating specifically to the other, a motion for the production of such documents shall be separately filed.

(b) Issue 2(a) contemplates the submission of engineering evidence. Therefore, at the conference regarding settlement and discovery, counsel are

also directed to confer about the possibility of the preparation of a Joint Engineering Exhibit or stipulation. Counsel for the applicants shall also confer with counsel for the Mass Media Bureau with regard to this matter.

(c) By December 12, 1991, a Joint Report shall be submitted to the Presiding Judge fully reporting on the results of the meeting described above.

4. The March 24, 1992, hearing date is a firm date. Accordingly, the following procedural schedule is established:

February 3, 1992	Completion of all discovery.
February 11, 1992	Preliminary exchange of joint engineering exhibit or stipulation.
March 3, 1992	Exchange of written direct cases. ¹
March 10, 1992	Notification of witnesses desired for cross-examination. ²
March 16, 1992	Objections to witness notification.
March 24, 1992	Commencement of the hearing at 10:00 a.m. in the Commission's Washington, D.C. offices. ³

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg
Administrative Law Judge

1 All exhibits must be received by all parties not later than this date. The exhibits will be serially numbered, separately paginated, and assembled in a binder with a tab on each document. A prefix will be used to indicate the party sponsoring the exhibit. Each exhibit must be accompanied by the affidavit or declaration under penalty of perjury of a sponsoring witness. If official notice is requested of any materials in the Commission's files, that material should be assembled in written form, properly identified by source, given an exhibit number, and exchanged on the date set.

2 Such notification may be made by phone or by fax. If oral notification is given it must be confirmed in writing. The parties should be mindful of the requirements of Section 1.248(d)(4) of the Rules.

3 Rebuttal, if any, will commence immediately after the conclusion of the direct cases.